

LCI International®
Worldwide Telecommunications

DOCKET FILE COPY ORIGINAL

RECEIVED

DEC 11 1997

EX PARTE OR LATE FILED

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

December 11, 1997

Mr. Lawrence Strickling, Chief
Competition Division, Office of the General Counsel
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Mr. Robert W. Spangler, Acting Chief
Enforcement Division, Common Carrier Bureau
Federal Communications Commission
2025 M Street, NW
Washington, DC 20554

Written ex parte presentation re:

CC Docket 94-129 In the Matter of Implementation of the Subscriber Carrier Selection
Changes Provisions of the Telecommunications Act of 1996 and

CCBPol 97-9, In the Matter of Recommendations for Commission Actions Related to
Local Exchange Competition

Gentlemen:

I am writing on behalf of LCI International Telecom Corp. ("LCI") to make you aware of recent actions taken by Bell Atlantic and BellSouth to use their control over presubscription processes to limit the ability of competitors, including LCI, to market local, intraLATA, and interLATA services. I've enclosed for your information two documents filed by LCI on these matters, including: (1) a letter to the New York State Public Utility Commission on Bell Atlantic presubscription practices and (2) a formal complaint filed against BellSouth, which is pending before the Georgia Public Service Commission.

LCI requests that the Competition Division and the Enforcement Division take notice of the presubscription practices outlined in the documents attached herein as both organizations proceed in their efforts to ensure that all competitors have fair and nondiscriminatory access to presubscription databases.

In other filings before the Federal Communications Commission, LCI has stated that emerging local competition and the promise of in-region, interLATA entry will incent Bell Companies and other incumbents to use their control over the presubscription process to make it

No. of Copies rec'd
List ABCDE

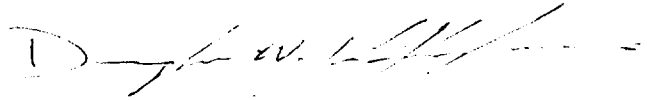
024

as difficult as possible for others to compete for new customers. For example, in LCI's initial comments in the Common Carrier Bureau's presubscription docket, CC 94-129, we stated:

The Commission should not allow ILECs to control PC change and freeze execution for themselves and their competitors. Leaving this power in the hands of the ILECs creates a clear conflict of interest between the ILEC role as master of PC changes and role as market competitor. The Commission should modify its current proposal of allowing ILECs to control PC changes and endorse a third-party clearinghouse model to execute PC changes.

LCI Comments at 4. The actions described herein indicate that incumbent control over presubscription practices is in fact limiting the ability of carriers, such as LCI, to compete, and LCI fully expects presubscription problems to persist as long presubscription remains under incumbent control. If you have any questions or would like additional information, please phone me at 703-848-4476.

Sincerely yours,



Douglas W. Kinkoph
Director, Regulatory and Legislative Affairs

Attachments

cc: Ms. Magalie Roman Salas, Secretary
Mr. Kurt A. Shroeder, Chief, Branch of Formal Complaints
Mr. Johnson Garrett, Local Competition Task Force

LCI International[®]

Worldwide Telecommunications

November 19, 1997

Mr. John F. O'Mara
Chairman
New York State Public Service Commission
Department of Public Service
Albany, New York 12223-1350

Re: Bell Atlantic-North (Formerly Nynex) Presubscription Practices

Dear Chairman O'Mara:

I am writing to you on behalf of LCI International Telecom Corp. ("LCI")¹ to bring to your attention recent actions by Bell Atlantic - North (formerly Nynex) to eliminate widely used methods of making carrier changes for interLATA and intraLATA (PIC/LPIC) service within the State of New York. LCI is requesting that the Commission conduct a review of presubscription practices of Bell Atlantic - North in light of (1) the elimination of three-way calls to change an interLATA PIC and (2) the elimination of "Real Time PIC Processing for Residences" as detailed below.

ELIMINATION OF THREE WAY CALLS TO CHANGE INTERLATA PIC

In a September 11, 1997 letter, Bell Atlantic informed LCI (Attachment 1) that it was unilaterally:

... announcing a change in our policy regarding three way calls. Three-way calls involve a Residence or Business end user, a Bell Atlantic representative, and an Interexchange Carrier (IC). Effective November 1, 1997, Bell Atlantic (formerly NYNEX customer contact centers will no longer accept three-way calls for the purpose of requesting an interLATA presubscription (PIC) change request or requesting an interLATA PIC Freeze. This is consistent with our policy of not accepting three-way calls to submit an intraLATA Presubscription (LPIC) change request or an LPIC freeze.

LCI protested the elimination of three-way PIC calls (see Attachment 2) to no avail (see reply letter to LCI from Bell Atlantic as Attachment 3), and Bell Atlantic is now requiring ICs to submit all PIC or LPIC change requests via other methods. Bell Atlantic's elimination of three-way calls to change a PIC significantly impacts LCI and other ICs who relied on three-way calls to obtain new customers.

¹ LCI is currently providing certificated interexchange and competitive local exchange (resale) services within New York. LCI is the nation's 6th largest interexchange carrier based on presubscribed lines.

ELIMINATION OF REAL TIME PIC PROCESSING

In addition to the change in policy for three-way calls, Bell Atlantic recently notified LCI in a letter dated October 11, 1997 (Attachment 4) that it was withdrawing its "Real Time PIC Processing for Residence" from its Access Services tariff at the FCC, and was also discontinuing an optional trial for business lines, effective October 16, 1997. Real Time PIC Processing allowed ICs to expedite the PIC processing through a switch (without LEC assistance) in end offices in Albany and Buffalo. Bell Atlantic stated that these innovative PIC expediting options were being "retired and replaced by a provisioning system used throughout the rest of Bell Atlantic." Since LCI was unable to protest this action at the FCC given Bell Atlantic's notice period, this option, to LCI's knowledge, has been discontinued.

ANTICOMPETITIVE CONCERNS

Prior to the unilateral change in policy by Bell Atlantic to eliminate three-way calls to change a PIC, LCI sales representatives could monitor conversations between the customer, LCI and Bell Atlantic, and ensure that (1) the customer was Piced to LCI, and that (2) the LEC did not engage in any anti-competitive actions that would influence the customer's selection of LCI as the service provider. By denying LCI sales representatives the ability to be present on a call, Bell Atlantic gains an opportunity to influence the customer's selection of either an intraLATA or interLATA carrier. This is of more concern given Bell Atlantic's recent announcement to apply for in-region long distance service. Bell Atlantic's unilateral change in policy at this strongly suggests that Bell Atlantic is attempting to gain an unfair competitive advantage over smaller rivals by restricting the presubscription process.

DIRECT ECONOMIC IMPACT ON LCI

Bell Atlantic's unilateral changes in the presubscription process are forcing LCI to change the way it conducts business. Many of LCI's residential sales are made via three-way calls. The ability to change a PIC via a three-way call enables a sales agent to "close" the sale with the customer and ensure that the LEC does not attempt to influence the customer's election of LCI as its provider of services. LCI disagrees with Bell Atlantic's claim that the electronic PIC and LPIC submissions are faster and more efficient, as LCI will have to significantly modify its residential sales agent practices which will add additional costs and time to submit a PIC or LPIC.

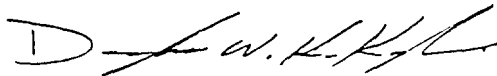
Because LCI is now precluded from changing a PIC via a three-way call, LCI agents, who previously relied on the three-way call to immediately submit a PIC change, are now required to (1) obtain an LOA, (2) return to a sales office with an LOA to query the Bell Atlantic system to determine if the customer has a PIC or LPIC freeze in place prior to submitting the order internally (or submit the change order via the electronic interface and risk a rejection due to a PIC freeze); and (3) contact the customer if a freeze is in place and then initiate a THREE-WAY call (which is still allowed) to remove the freeze, change the PIC, and then refreeze the PIC.

Since the residential agents do not use, nor are required to use an LOA² when a three-way call between the customer, the agent and the LEC is made to change a PIC, LCI must (1) develop LOAs for these residential sales agents, (2) establish a new distribution channel for the new LOAs, and (3) develop and implement new procedures for residential sales agents to submit the LOAs and/or orders to initiate a PIC or LPIC change.

COMMISSION ACTION REQUESTED

LCI respectfully requests that the Commission review the presubscription practices of Bell Atlantic. In the interim, LCI requests that Commission require Bell Atlantic to make three-way PIC calls available immediately. LCI regards these actions by Bell Atlantic involving its presubscription practices as a limit on its current business practices and a potential anti-competitive threat. If you desire additional information or have questions, or would like to schedule a meeting, I may be reached at (703) 848-4476.

Respectfully,



Douglas W. Kinkoph
Director, Regulatory and Legislative Affairs

Attachments

cc: Ms. Maureen O. Helmer, Deputy Chairman
Mr. Thomas J. Dunleavy, Commissioner
Mr. Lawrence G. Malone, General Counsel
Mr. Daniel Martin, Chief, Tariffs and Rates, Communications Division
Mr. Allan Bausback, Acting Director, Communications Division

² An LOA is not necessary under the current FCC and state rules if the customer, or the customer and agent contact the LEC directly to initiate a PIC change.

ATTACHMENT I

NYNEX
222 Bloomingdale Road, White Plains, NY 10605
Tel 914 644 4841
Fax 914 422 0919

Rosemary E. Dresch
Director, Large Carrier Accounts

NYNEX

September 11, 1997

Mr. Doug Kinkoph
LCI International
8180 Greensboro Drive, Room 800
McLean, VA 22102

Dear Mr. Kinkoph:

As a result of a review of Presubscription practices in Bell Atlantic (formerly NYNEX) customer contact centers, Bell Atlantic is announcing a change in our policy regarding three-way calls. Three-way calls involve a Residence or Business end user, a Bell Atlantic representative, and an Interexchange Carrier (IC). Effective November 1, 1997, Bell Atlantic (formerly NYNEX) customer contact centers will no longer accept three-way calls for the purposes of requesting an interLATA Presubscription (PIC) change request or requesting an interLATA PIC Freeze. This is consistent with our policy of not accepting three-way calls to submit an intraLATA Presubscription (LPIC) change request or an LPIC freeze.

The current PIC and LPIC three-way call policies were difficult to administer and confusing for our mutual end users. With this change, you will submit all of your PIC or LPIC Change requests through our user-friendly Customer Account Record Exchange (CARE) options including: Network Data Mover (NDM), magnetic tape, or Direct Customer Access Service (DCAS). IC initiated PIC and LPIC Change orders are normally processed in one day. In the event a customer requests a PIC or LPIC freeze, you may refer them to our customer contact centers where we can investigate their concerns and apply a PIC or LPIC freeze if appropriate.

Bell Atlantic, formerly NYNEX, customer contact centers will continue to accept three-way calls to 'unfreeze' a PIC in accordance with our LPIC three-way call policy. Freezing allows end users to prohibit the unauthorized change of their PIC or LPIC and can only be removed by the end user calling or writing their Bell Atlantic customer contact center. PIC and LPIC Freeze status information is available through the data gathering feature of DCAS and on our CARE non-subscribed and subscribed end user lists. NYNEX will unfreeze a PIC or LPIC on a three-way all and process the PIC or LPIC request at that time (and refreeze the PIC or LPIC if requested).

We will continue to participate in three-way calls for the purposes of IC Switchback. IC Switchback allows the IC responsible for an unauthorized PIC or LPIC Change to contact a Bell Atlantic, formerly NYNEX, customer contact center with a customer on the line and switch the line back to the original PIC or LPIC.

Please contact your Account Manager if you need information regarding submitting PIC or LPIC Change requests to Bell Atlantic.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. Dresch". The signature is written in dark ink and is positioned to the left of the rest of the page.

ATTACHMENT II

LCI International®

Worldwide Telecommunications

September 18, 1997

Ms. Rosemary Dresch
Director, Large Carrier Accounts
Bell Atlantic/NYNEX
222 Bloomingdale Road
White Plains, NY 10605

Re: September 11, 1997 Letter Regarding Three Way Calls

Dear Ms. Dresch:

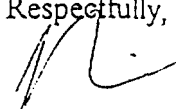
I am in receipt of your September 11, 1997 letter to Doug Kinkoph regarding the proposed change in Bell Atlantic/NYNEX's policy regarding three way calls.

LCI is disappointed that Bell Atlantic/NYNEX has unilaterally decided to discontinue using three way conference calls to effectuate either a PIC change or PIC freeze. LCI does not believe that Bell Atlantic/NYNEX has the authority to unilaterally discontinue its existing policy which allows such transactions to occur. LCI has historically used this method to effectuate PIC changes in a more expeditious manner versus the slower NDM or CARE systems in certain instances.

I am requesting that you provide me with Bell Atlantic's legal analysis which permits such a unilateral decision. Please provide any and all state regulatory agency rulings or FCC rulings which support this policy change. Further clarification is also requested as to the applicability of this policy change to specific states. Does this policy change apply to all NYNEX (and/or Bell Atlantic) states, or only New York? Also, while the policy change eliminates any three-way calls for PIC changes or freezes, LCI also requests clarification if that policy also applies to calls which begin as three way calls (IXC/LEC/Customer), but continue after the IXC disconnects from the call (LEC/Customer)? Further, does Bell Atlantic/NYNEX also intend to apply this same prohibition on three-way calls to itself, either now or in the future?

I look forward to your timely response on this matter. If you have any questions, please do not hesitate to call me at (703) 610-4866.

Respectfully,


J. Scott Nicholls
Sr. Manager, State Affairs

cc: Doug Kinkoph
Ann Scott

ATTACHMENT III

Bell Atlantic Network Services
222 Bloomingdale Road
White Plains, NY 10605
914 644-4841 Fax 914 422-0919

Rosemary E. Dresch
Director - Large Carrier Accounts

October 1, 1997



J. Scott Nicholls
Senior Manager, State Affairs
LCI International
8180 Greensboro Drive, Suite 800
McLean, Virginia 22102

Dear Mr. Nicholls,

Thank you for your letter requesting clarification of the Bell Atlantic (formerly NYNEX region) policy regarding three-way calls into Bell Atlantic customer contact centers. The change in policy is meant to simplify our procedures by having the same intraLATA and interLATA PIC three-way call policy in Bell Atlantic.

In response to your comment that a PIC or LPIC change request via a three-way call to a Bell Atlantic customer service center is faster in some cases than the CARE process, our performance measurements show that 93% of PIC or LPIC change requests submitted directly from carriers are completed and confirmations sent back within one day. PIC and LPIC change requests submitted via a customer service center typically take a day or two longer than carrier submitted requests as the service order process has to complete before a confirmation is sent back to the carrier. If you experience problems processing PIC or LPIC change requests to Bell Atlantic through any of the various media we offer, Network Data Mover (NDM), magnetic tape or paper, please call our Subscription Group on (617) 743-7722. If you are not completely satisfied with the service you receive, Karen Folger, Staff Director - Subscription Group, is available on (617) 743-4744.

Bell Atlantic's *Direct Customer Access Service* (DCAS) in the North and *Xpress Electronic Access* (XEA) in the South, for submitting PIC and LPIC changes as well as performing data gathering functions are currently on line in several LCI PIC processing locations. This on-line electronic interface is a useful supplement and enhancement for processing PIC change requests. If you have questions, please call me on 914-644-4841.

Answers to your specific questions regarding the 3-way call process are below.

- There are no FCC regulations that require Bell Atlantic to accept a three-way call to submit an interLATA PIC change request or PIC freeze request. In states in the former NYNEX region that have been converted to intraLATA Presubscription (ILP), we have intraLATA presubscription plans on file with the state regulatory agencies which state we will not accept three-way calls to submit an intraLATA PIC change request or intraLATA PIC freeze.

- This policy applies to all Bell Atlantic states: New York, two exchanges we serve in Connecticut, New Hampshire, Vermont, Massachusetts, Maine, Rhode Island, Delaware, Maryland, New Jersey, Pennsylvania, Virginia, West Virginia and Washington D.C..

- Bell Atlantic continues to accept three-way calls to unfreeze a PIC or LPIC and during the three-way call we will accept a PIC or LPIC order and refreeze the PIC or LPIC.

- Bell Atlantic will apply this policy to our affiliate long-distance company once in-region long distance relief has been granted.

I hope this has helped to explain Bell Atlantic's policy concerning three way calls. If you have any questions or require additional information regarding Bell Atlantic's products or services, please call me.

A handwritten signature in cursive script that reads "Rosemary".
Rosemary Dresch

ATTACHMENT IV

Bell Atlantic Network Services
222 Bloomingdale Road
White Plains, NY 10605
914 644-4841 Fax 914 422-0919

Rosemary E. Dresch
Director - Large Carrier Accounts



October 10, 1997

Ms. Ann Scott
Director Carrier Relations
LCI International
8180 Greensboro Drive Suite 900
McLean, VA 22102

Dear Ms. Scott:

This letter is to inform you that Bell Atlantic (formerly NYNEX) is withdrawing Real Time PIC Processing for Residence from our Access Service Tariff F.C.C. No. 1. Real Time PIC Processing enables an Interexchange Carrier (IC) using our on-line system, Direct Customer Access Service (DCAS), to submit an interLATA PIC Change Order for a line and expedite the processing through a switch. Effective October 16, 1997, pending approval of our tariff filing, Real Time PIC Processing for Residence will be removed from the tariff and no longer available as an on-line system feature. An operational trial for Real Time PIC Processing for business lines has also been discontinued.

Real Time PIC Processing is available in limited wire centers in the 518 (Albany) and 716 (Buffalo) NPAs in New York state. For greater efficiency, the provisioning system in these wire centers through which Real Time PIC Processing is provided is being retired and replaced by a provisioning system used throughout the rest of Bell Atlantic. Due to this conversion, we can no longer provide Real Time PIC Processing functionality.

We continue to offer a variety of options for submitting PIC Changes to Bell Atlantic including; Network Data Mover, a software system which allows the electronic transfer of data; magnetic tape; on-line system - DCAS; and paper. Our DCAS Subscription application provides user-friendly on-line PIC Change order entry and access to valuable customer account data. DCAS also has immediate on-line error detection to ensure accurate PIC order entry. PIC changes submitted by Interexchange Carriers via all media are effected in our switch usually in 24 hours.

If you have any questions or concerns, please contact your Account Manager.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. Dresch".

**BEFORE THE
GEORGIA PUBLIC SERVICE COMMISSION**

In Re:)	
)	DOCKET NO. 5319-U
Investigation Into Implementation of)	
IntraLATA Presubscription)	

FORMAL COMPLAINT

LCI International Telecom Corp. ("LCI"), by its attorneys and pursuant to O.C.G.A. §§ 46-2-20(b)¹ and 46-5-168(b)(5)² and Georgia Public Service Commission ("Commission") Rule 515-2-1-.04(1), hereby submits this formal Complaint against BellSouth Telecommunications, Inc. ("BellSouth") requesting the Commission: (i) to conduct a contested proceeding on the allegations contained in this Complaint, and (ii) to order BellSouth to cease their current anticompetitive business practices concerning the changing of a customer's "1+" intraLATA toll carrier. As grounds therefor, LCI states as follows:

I. THE PARTIES

1. LCI is a Delaware corporation headquartered at 8180 Greensboro Drive, Suite 800, McLean, Virginia 22102. LCI holds certificates from this Commission to provide intrastate

¹O.C.G.A. § 46-2-20(b) (stating that "the [C]ommission may hear complaints").

²O.C.G.A. § 46-5-168(b)(5) (stating that the Commission's jurisdiction shall include authority to "[r]esolve complaints against a local exchange company regarding the company's service.").

local exchange service,³ alternate operator service⁴ and long distance service⁵ in the State of Georgia.

2. BellSouth is a Regional Bell Operating Company that provides switched local exchange and other telecommunications services in nine states, including Georgia, Alabama, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. BellSouth is the dominant, incumbent local exchange company in Georgia.

II. PROCEDURAL HISTORY

3. On March 8, 1991, MCI Telecommunications Corporation filed a petition with the Commission requesting an investigation into intraLATA competition. On March 20, 1992, the Commission approved a stipulation among various parties providing, in pertinent part, that an Industry Task Force would be established to investigate implementation of intraLATA presubscription and that intraLATA competition on a presubscribed basis would not be implemented for three years.

4. On June 27, 1994, AT&T Communications of the Southern States, Inc. ("AT&T") filed a petition with the Commission, seeking the establishment of an Industry Task Force to evaluate methods to implement intraLATA presubscription.

³LCI International Telecom Corp.'s Certificate of Authority to Provide Competitive Local Exchange Telecommunications Services, Docket No. 6543-U (Certificate issued Oct. 1, 1996)

⁴LCI Telecom South, Inc.'s Certificate of Public Convenience and Necessity to Provide Intrastate Interexchange Alternate Operator Service, Certificate No. A-070 (issued Feb. 3, 1994).

⁵LCI Telecom South, Inc.'s Certificate of Public Convenience and Necessity to Resell Interexchange Telecommunications Services, Certificate No. R-170 (issued Feb. 3, 1994).

5. On August 9, 1994, the Commission issued a letter order which established an Industry Task Force to investigate implementation issues related to intraLATA presubscription, including "1+" and "0+" equal access dialing. The Industry Task Force filed a report on such issues on March 1, 1995. The Commission conducted hearings on March 15, 1995 and April 4-5, 1995 to consider the issues identified by the Industry Task Force in its report.

6. In 1995, the Georgia legislature passed the Telecommunications Competition and Development Act of 1995 (the "Georgia Act").⁶ The Georgia Act became effective on July 1, 1995. Among other things, the Georgia Act required that "1+" presubscription be made available to all Georgia consumers by January 1, 1996.⁷ After consideration of the Georgia Act's requirements and the Industry Task Force's report, the Commission adopted general implementation procedures for "1+" intraLATA equal access competition on November 28, 1995.⁸

7. Thereafter, on December 23, 1996, MCI, AT&T and WorldCom, Inc. d/b/a LDDS WorldCom ("WorldCom") filed a Joint Complaint ("Joint Complaint") against BellSouth relating to the anticompetitive methods and procedures employed by BellSouth pertaining to the implementation of intraLATA equal access competition. On May 14, 1997, the Commission issued an order on joint complaint ("Order on Joint Complaint") requiring BellSouth to modify certain of its intraLATA equal access procedures pertaining to intraLATA competition among all

⁶O.C.G.A. § 46-5-160 *et seq.*

⁷O.C.G.A. § 46-5-162(2).

⁸In re: Investigation Into Implementation of IntraLATA Presubscription, Order, Docket No. 5319-U (Nov. 28, 1995).

interexchange carriers. BellSouth's failure to comply with the provisions of the Commission's Order on Joint Complaint forms the basis of this Complaint.

III. JURISDICTION OF THE COMMISSION

8. The Commission maintains statutory supervisory authority over "telephone companies, or persons owning, leasing, or operating a public telephone service or telephone lines in [Georgia]".⁹ Moreover, the Commission's statutory authority expressly includes authority to "[r]esolve complaints against a local exchange company regarding the company's service."¹⁰ Further, the Georgia Act requires the Commission to take steps necessary to prevent anticompetitive, unjust and unreasonable practices by telecommunications companies subject to its jurisdiction.¹¹

9. In its Orders in Docket No. 5319-U, the Commission ordered BellSouth to implement "1+" intraLATA, equal access capability by January 1, 1997, and to devise business practices and procedures that would govern such implementation. In such orders, the Commission expressly retained jurisdiction over intraLATA presubscription issues for the purpose of entering such further order, or orders as the Commission deems to be just and proper.

IV. SPECIFIC ALLEGATIONS OF BELL SOUTH'S ANTICOMPETITIVE CONDUCT

10. BellSouth is utilizing anticompetitive procedures designed to discourage customers from exercising their right to change intraLATA carriers, interLATA carriers, or both.

⁹O.C.G.A. § 46-2-22(b)(4).

¹⁰O.C.G.A. § 46-5-168(b)(5). See also O.C.G.A. § 46-2-20(b) (stating that "the [C]ommission may hear complaints").

¹¹O.C.G.A. §§ 46-5-169, 46-2-20(c).

Specifically, when a customer contacts BellSouth to change their intraLATA or interLATA carrier, BellSouth rejects the customer's request to change carriers and directs the customer to call the customer's preferred intraLATA or interLATA long distance carrier.

11. BellSouth is engaging in anticompetitive acts and practices in violation of the Commission's May 14, 1997, Order on Joint Complaint in an apparent attempt to thwart competition in the intraLATA and interLATA markets. In the Joint Complaint filed by MCI, AT&T and LDDS, the joint complainants alleged that:

BellSouth has adopted a policy of telling existing customers who contact BellSouth for the purpose of selecting a different intraLATA carrier that they must contact the new carrier to make such arrangements, rather than processing the change directly upon receiving the request. This practice differs from the way BellSouth intends to treat new customers who select an intraLATA carrier other than BellSouth. It injects an unnecessary impediment to the customer's exercise of choice that the Commission intended to facilitate through the issuance of Order No. 5319-U and the General Assembly [m]andated in the Georgia Act.¹²

12. In response to the joint complainants' allegation, the Commission ordered that:

BellSouth is directed to transfer customers on line, through the existing tariff, thereby eliminating the necessity of a second call for customers to change their intraLATA carrier.¹³

¹²In re: Investigation Into Implementation of IntraLATA Presubscription, Complaint of MCI, AT&T and LDDS WorldCom, Docket No. 5319-U, p. 7 (Dec. 23, 1995).

¹³In re: Investigation Into Implementation of IntraLATA Presubscription, Order, Docket No. 5319-U (May 14, 1997).

13. On or about August 28, 1997, an LCI representative, acting as an agent for one of its customers,¹⁴ contacted BellSouth Business Systems (tel. 770/780-2033) to change the customer's long distance service and heard a recording which stated:

[t]hank you for calling BellSouth Business Systems. If you are calling to change your long distance carrier, please contact your carrier of choice directly. Their number may be found in the telephone directory. If you are calling for repairs, press one; if you are calling about your home telephone, press two; and if you are calling about your business service, press three.

14. On November 18, 1997, LCI's representative placed a second call to BellSouth Business Systems (tel. 770/780-2033) and heard this same recording.

15. This ongoing BellSouth practice squarely contradicts the Commission's Order on Joint Complaint. Moreover, BellSouth's anticompetitive practice of referring the customer to the long distance carrier of the customer's choice acts as an impediment to long distance competition by carriers such as LCI inasmuch as a customer must invest additional time and effort for the initiation of a second call to change their long distance service.

V. STATUTES AND ORDERS VIOLATED

16. BellSouth's procedures for changing a customer's "1+" intraLATA and interLATA carrier are anticompetitive acts and practices in violation of Section 46-5-169(4) of the Georgia Code.

¹⁴Section 46-5-169(7) states that "[n]othing in this Code section shall restrict a customer from authorizing an agent to order such services on its behalf." O.C.G.A. § 46-5-169(7).

17. BellSouth's procedures for changing a customer's "1+" intraLATA and interLATA carrier are unjust and unreasonable practices in violation of Section 46-2-20(c) of the Georgia Code.

18. BellSouth's procedures for changing a customer's "1+" intraLATA and interLATA carrier violate the Commission's Order on Joint Complaint issued May 14, 1997.

VI. REQUESTED RELIEF

19. As a remedy and deterrent to BellSouth's unlawful and coercive actions in connection with the implementation of intraLATA competition, LCI requests that the Commission order BellSouth promptly to accept and to process customer requests for a change to both their intraLATA or interLATA carrier without adding additional steps to that process such as directing the customer to make the change through their desired carrier. Moreover, inasmuch as O.C.G.A. § 46-5-169(7) expressly permits the customer to designate a carrier representative as their agent, LCI requests that the Commission order BellSouth to accept and to process a customer's agent's request, either directly or via a three-way conference call with the customer, to change the customer's intraLATA or interLATA carrier.

20. Commission grant of the requested relief is consistent with pro-customer relief granted by other state commissions inasmuch as other state commissions currently require the dominant local exchange company to accept and to process requests - either directly from the customer, from the customer's agent, or jointly from the customer and their agent via a three-way call - for a change of the customer's long distance carrier.¹⁵

¹⁵See, e.g., Re: IntraLATA Presubscription, New Hampshire Public Utilities Commission, Order No. 22,281, DE 96-090 (Aug. 16, 1996); Sprint Communications Company, L.P. v. Ameritech Michigan, Michigan Public Service Commission, Order, Case No. U-11038 (Aug. 1, (continued...))

21. Commission grant of the requested relief is consistent with BellSouth's past and current equal access procedures. Specifically, in the past, upon receiving a customer's request to change their interLATA carrier, BellSouth made the desired change. Moreover, currently, when a customer contacts BellSouth to request a "freeze" of their long distance carrier to prevent unauthorized "slamming", BellSouth makes the desired change. Consequently, LCI requests that the Commission order BellSouth to engage in intraLATA and interLATA equal access procedures that are consistent with BellSouth's current and former, pro-customer practices and that do not create anticompetitive hurdles to the exercise of customer decisions to change their intraLATA and interLATA carrier.

WHEREFORE, LCI seeks the following relief from the Commission:

1. An investigation and hearing pertaining to the anticompetitive practices of BellSouth;
2. An order declaring the actions of BellSouth to constitute (a) unjust and unreasonable practices in violation of O.C.G.A. § 46-2-20(b) and (b) anticompetitive acts or practices in violation of O.C.G.A. § 46-5-169(4);
3. An order directing BellSouth to cease and desist from engaging in the above-stated unlawful activities; and
4. Such other relief as the Commission deems just and proper.

¹³(...continued)

1996); MCI Telecommunications Corporation, AT&T Communications of Illinois, Inc. and LCI International Telecom Corp. v. Illinois Bell Telephone Company d/b/a Ameritech Illinois, Illinois Commerce Commission, Order, Docket Nos. 96-0075, 96-0084 (consolidated) (April 3, 1996).

Respectfully submitted this 19th day of November, 1997.

GERRY, FRIEND & SAPRONOV, LLP


WALT SAPRONOV


CHARLES A. HUDAK

Three Ravinia Drive, Suite 1450
Atlanta, GA 30346-2131
(770) 399-9500

COUNSEL FOR LCI INTERNATIONAL TELECOM CORP.

and

Douglas W. Kinkoph
J. Scott Nicholls
LCI International Telecom Corp.
8180 Greensboro Drive, Suite 800
McLean, Virginia 22102
(703) 848-4476
(703) 610-4866

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Formal Complaint, by depositing same in the United States mail in a properly addressed envelope with adequate postage thereon to insure delivery to the following parties:

Jim Hurt, Director
Consumers' Utility Counsel
2 MLK Jr. Dr. E Tower, Ste 356
Atlanta, GA 30334

Stacey Ferris-Smith, Esq.
Assistant Attorney General
Suite 132
40 Capital Avenue
Atlanta, GA 30334

Fred McCallum, Jr., Esq.
General Counsel
BellSouth Telecom., Inc.
Room 376
125 Perimeter Center West
Atlanta, GA 30346

Sharon E. Norris, Asst VP
AT&T
303 Peachtree St., Suite 3830
Atlanta, GA 30308

Marsha A. Ward, Esq.
MCI Telecommunications Corp.
Southern Region
780 Johnson Ferry Road
Atlanta, GA 30342

Tony H. Key, Esq.
Carolyn Tatum Roddy, Esq.
State Regulatory
Sprint
Mailstop: GAATLN0802
3100 Cumberland Circle
Atlanta, GA 30339

John Silk
Georgia Telephone Association
1900 Century Blvd, Suite 8
Atlanta, GA 30345

Brian Sulmonetti, Esq.
LDDS Communications
1515 So. Federal Hwy., Ste 400
Boca Raton, FL 33432-7404

C. Christopher Hagy, Esq.
David I. Adelman, Esq.
Sutherland, Asbill & Brennan
999 Peachtree Street, NE
Atlanta, GA 30309-3996

Newton M. Galloway, Esq.
Hendrix & Smith
P.O. Box 632
Zebulon, GA 30295

John Graham
Manager, Regulatory Affairs
ALLTEL Georgia, Inc.
906 Vista Drive
Dalton, GA 30721

Gordon D. Giffin, Esq.
Laura F. Nix, Esq.
James D. Comerford, Esq.
Long Aldridge & Norman
One Peachtree Center, Suite 5300
303 Peachtree Street
Atlanta, GA 30308

E. Freeman Leverett, Esq.
Heard, Leverett, Phelps, Weaver & Campbell
P.O. Drawer 399
Elberton, GA 30635

Jack H. Watson, Jr., Esq.
John W. Ray, Jr., Esq.
Long, Aldridge & Norman
One Peachtree Center, Suite 5300
303 Peachtree Street, N.E.
Atlanta, GA 30308


R. Gregory Brophy
Alston & Bird
One Atlantic Center
1201 W. Peachtree Street
Atlanta, GA 30309-3424

Peyton S. Hawes, Esq.
229 Peachtree Street, N.E.
Suite 2400
Atlanta, GA 30303-1629

Mr. Andrew O. Isar
Harbor Consulting Group
P.O. Box 2461
Gig Harbor, WA 98335

Mr. David Summers
INTEX
5901-A Peachtree Dunwoody Road
Suite 500
Atlanta, GA 30328

This 19th day of November, 1997.


CHARLES A. HUDAK
Georgia Bar No. 373980

GERRY, FRIEND & SAPRONOV, LLP
Suite 1450
Three Ravinia Drive
Atlanta, Georgia 30346-2131
(770) 399-9500